

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JANET HALEY,

Plaintiff,

No. C 10-3856 PJH

v.

**ORDER DENYING
MOTION TO TRANSFER**

COHEN & STEERS CAPITAL
MANAGEMENT, INC., DAVID EDLIN, an
individual, and DOES 1 through 20,

Defendants.

Defendants' motion to transfer venue pursuant to 28 U.S.C. § 1404(a) came on for hearing on February 23, 2011. Defendants Cohen & Steers Capital Management Corporation ("Cohen & Steers") and David Edlin ("Edlin") (collectively "defendants"), appeared through their counsel, Matthew Mason. Plaintiff Janet Haley ("Haley"), appeared through her counsel, Mary Shea Hagebols and Jeffrey Allens. Having read all the papers submitted and carefully considered the relevant legal authority, the court hereby DENYS defendants' motion, for the reasons stated at the hearing, and summarized as follows:

Pursuant to 28 U.S.C. § 1404(a), "for the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." Neither party disputes that this case could have been brought in the Southern District of New York. Thus, the issue in dispute on defendants' motion is whether the following factors weigh in favor of transfer: (1) plaintiff's choice of forum, (2) convenience of the parties, (3) convenience of the witnesses, (4) ease of access to the evidence, (5) familiarity of each forum with the applicable law, (6) feasibility of consolidation with other claims, (7) any local interest in the controversy, and (8) the relative court congestion and time of trial in each forum. Vu v. Ortho-McNeil Pharm., Inc., 602 F. Supp. 2d 1551, 1156 (N.D. Cal. 2009).

1 As plaintiff is a resident of this forum, her decision to file suit here is accorded
2 substantial weight and "unless the balance of factors is strongly in favor of the defendants,
3 the plaintiff's choice of forum should rarely be disturbed." Securities Investor Protection
4 Corp. v. Vigman, 764 F.2d 1309, 1317 (9th Cir. 1985). The factors set forth by defendants
5 are simply not enough to disturb plaintiff's choice of forum, given that: plaintiff is a resident
6 of this district; plaintiff has identified seventy-seven potential witnesses located in
7 California, seventy-three of whom live in this district; and this district is familiar with
8 California state law. The fact that there may be nineteen defendants' witnesses
9 inconvenienced, of which only seven are non-employees, is not persuasive. The court will
10 not simply shift defendants' inconvenience to plaintiff. Decker Coal Co. v. Commonwealth
11 Edison Co., 805 F.2d 834, 843 (9th Cir. 1986).

12
13 **IT IS SO ORDERED.**

14 Dated: February 24, 2011



PHYLLIS J. HAMILTON
United States District Judge